

Stat of Utah
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF OIL, GAS AND MINING

Michael O. Leavitt Governor Robert L. Morgan Executive Director Lowell P. Braxton Division Director 1594 West North Temple, Suite 1210 PO Box 145801 Salt Lake City, Utah 84114-5801 (801) 538-5340 telephone (801) 359-3940 fax (801) 538-7223 TTY www.nr.utah.gov

December 18, 2003

CERTIFIED RETURN RECEIPT 7099 3400 0016 8896 3182

Anthony Christofferson H.E. Davis Construction, Inc. 525 West Arrowhead Drive P.O. Box 488 Spanish Fork, Utah 84639

Re: <u>Division Directive, H.E. Davis Construction Inc., Levan Chicken Creek Mine,</u> M/023/016, Salt Lake County, Utah

Dear Mr. Christofferson:

As you know, the Division has been working to finalize the large mine permitting process for the Levan Chicken Creek Mine for nearly three and a half years. We sent our first large mine review document to Bob Steele and Jack Dansie on April 3, 2000. The mine property and permitting responsibility was subsequently transferred to Geneva Rock Products and then to H.E. Davis Construction, Incorporated. We sent our first permit review document to you on June 27, 2000.

Since then, we have met with you and other company representatives in our offices and onsite several times to discuss the remaining technical deficiencies. On December 10, 2002, we published tentative approval of your large mine application. We recinded our tentative approval upon notification and confirmation that certain baseline information and public safety concerns had not been properly addressed in the application.

It has been a time-consuming and frustrating experience trying to communicate our needs and finalize the permitting process for this mine. I'm sure you share similar frustrations and concerns. Because of this extended delay, and the uncertainty of when a complete application will be received and a permit issued, we believe it is necessary to take the following action.



Anthony Christofferson Page 2 of 3 M/023/016 December 18, 2003

Rules R647-4-101 and R647-4-113 require a large mining operation to have an approved permit and adequate reclamation surety in place before beginning or continuing mining operations. To date, a complete and approved large mine permit application is not on file for the Levan Chicken Creek Mine. A \$226,100 surety bond was received for the lower canyon Levan-Steele mine on January 21, 2003. The \$226,100 reclamation cost estimate does not include the additional disturbance associated with the upper canyon Chicken Creek mine site.

Therefore, the following directive has been prepared:

DIVISION DIRECTIVE:

It is hereby directed that:

- 1. Within 10 days from receipt of this Directive, H.E. Davis Construction will schedule a meeting with the Division to discuss the resolution and submittal of all the necessary information to complete the large mine permit application process.
- 2. Within 30 days of this meeting, all of the remaining technical information (third review letter enclosed) must be submitted to the Division.
- 3. Within 30 days of our receipt of a *complete* permit application from H.E. Davis Construction Inc., we will publish a second tentative approval notice of the large mine notice as required by rule R647-4-116 Public Notice and Appeals.
- 4. If timeframes are not met in this Directive, a cease mining order may be issued by this Division to H.E. Davis Construction Inc. and all mining activities will be suspended at the mine site as provided at Utah Code 40-8-9(3).

APPEAL PROVISIONS

As anticipated at R647-5-106.17, within 10 days of your receipt of this letter, you or your agent may register an appeal of this directive with the Associate Director of Mining, or the Division Director. Please contact Vickie Southwick at (801) 538-5304 to schedule an informal meeting with the Associate Director. You may also file a written appeal for an informal hearing before the Division Director. Contact Mary Potter at (801) 538-5327 for information on filing a written appeal for an informal hearing.

Failure to comply with the 10-day requirement may result in a waiver of your right of further recourse.

Anthony Christofferson Page 3 of 3 M/023/016 December 18, 2003

If you have questions regarding this directive, please contact me at (801) 538-5286, or Tom Munson at 538-5321.

Sincerely,

D. Wayne Hedberg, Permit Supervisor

Minerals Regulatory Program

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Enclosure: 3rd Review of information submitted Oct. 3 and Oct. 20

Kay Christofferson, HE Davis Construction Inc.

Mary Ann Wright, OGM Tom Munson, OGM Vickie Southwick, OGM

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